

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SEPRACOR INC.,

Plaintiff,

v.

DEY, L.P. and DEY, INC.,

Defendants.

C.A. No. 06-113-KAJ

**PLAINTIFF SEPRACOR INC.'S MOTION TO STRIKE
THE JURY TRIAL DEMAND OF DEFENDANTS DEY, L.P. AND DEY, INC.**

Plaintiff Sepracor Inc. ("Sepracor"), by and through its undersigned attorneys, hereby moves to strike the jury trial demand of Defendants Dey, L.P. and Dey, Inc. pursuant to Fed. R. Civ. P. 12(f). As set forth in Sepracor's accompanying opening brief in support of this motion, in the absence of a claim for damages, there is no right to a jury trial in an action for patent infringement, such as this one, brought under the Drug Price Competition and Patent Term Restoration Act of 1984 (the "Hatch-Waxman Act"). Accordingly, Sepracor respectfully requests that this Court grant its Motion to Strike the Jury Trial Demand of Defendants Dey, L.P. and Dey, Inc.

July 7, 2006

THE BAYARD FIRM

/s/ Richard D. Kirk (rk0922)

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**LOCAL RULE 7.1.1 STATEMENT IN SUPPORT OF
PLAINTIFF SEPRACOR INC.'S MOTION TO STRIKE THE JURY
TRIAL DEMAND OF DEFENDANTS DEY, L.P. AND DEY, INC.**

The undersigned attorney for plaintiff, Sepracor Inc. ("Sepracor") hereby states, pursuant to Local Rule 7.1.1, that Sepracor's attorneys have made a reasonable effort to reach agreement with opposing counsel on the matters set forth in Plaintiff Sepracor Inc.'s Motion to Strike the Jury Trial Demand of Defendants Dey, L.P. and Dey, Inc., but that agreement was not forthcoming.

July 7, 2006

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Counsel for plaintiff,

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that, on July 7, 2006, he electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send automatic notification of the filing to the following:

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The undersigned counsel further certifies that, on July 7, 2006, copies of the foregoing document were sent by email and hand to the above local counsel and by email and first class mail to the following non-registered participant:

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